



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

Lyn Utrecht  
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Ryan, Phillips, Utrecht & Mackinnon  
1133 Connecticut Avenue, NW Suite 300  
Washington, DC 20036

**JUL 1 2009**

**RE: MUR 6148**  
**Hillary Clinton for President**  
**and Shelly Moskwa, as treasurer**

**Dear Counsel:**

On December 22, 2008, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). On June 25, 2009, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe Hillary Clinton for President and Shelly Moskwa, in her official capacity as treasurer, violated the Act. Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact Tracey L. Ligon, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie K. McConnell".

**Julie K. McConnell**  
**Assistant General Counsel**

**Enclosure**  
**Factual and Legal Analysis**

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## **FEDERAL ELECTION COMMISSION**

### **FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Hillary Clinton for President and Shelly  
Moskwa, in her official capacity as Treasurer

**MUR:** 6148

#### **I. INTRODUCTION**

This matter was generated by a complaint filed with the Federal Election Commission by Lisa Harrison alleging violations of the Federal Election Campaign Act of 1971 ("the Act"), as amended by the Bipartisan Campaign Reform Act of 2002 ("BCRA"), by Hillary Clinton for President and Shelly Moskwa, in her official capacity as Treasurer.

#### **II. FACTUAL AND LEGAL ANALYSIS**

The complaint in this matter alleges that Hillary Clinton for President violated the Act by engaging in deceptive fundraising when it solicited funds after Hillary Clinton had ended her campaign and was assisting Barack Obama in securing the Democratic presidential nomination. Complaint, p. 1. Attached to the complaint is an undated letter the complainant asserts that she received during the week of August 18-23, 2008 (the week prior to the Democratic National Convention) from Hillary Clinton for President Committee soliciting funds to retire campaign debt; a page from the National Organization for Women PAC's website, dated August 26, 2008, soliciting funds for Hillary Clinton for President under the heading "Donate for Hillary for President;" and a copy of a "hillarycampaign2008" website contribution page dated August 26, 2008. Complaint, Attachments 4-6.

In response to the complaint, Hillary Clinton for President asserts that the complaint should be dismissed because it does not contain facts that describe a violation of law, or any supporting documentation, and that no provision of law prohibits the Committee from raising

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funds, subject to the Act's limitations and prohibitions, to retire its own debt, while at the same time, the Committee's candidate is campaigning for other candidates. Response of Hillary Clinton for President, p. 2.

The Act defines the term "contribution" as "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). There is nothing in the Act or the Commission's regulations that prohibits a campaign committee from soliciting and receiving contributions, within applicable limitations and prohibitions, to pay off the campaign's debts after the candidate drops out of the race. *See FEC v. Ted Haley Congressional Comm.*, 852 F.2d 1111, 1115 (9<sup>th</sup> Cir. 1988) (stating with respect to Federal elections, "funds raised after an election to retire election campaign debts are just as much . . . in connection with the election as are those contributions received before the election," quoting Advisory Opinion 1983-2 (Citizens for Emery Committee); *cf.* 11 C.F.R. §§ 110.1(b)(3)(i) and 110.2(b)(3)(i) (permitting acceptance of contributions designated for a particular election after that election to the extent that the contributions do not exceed net debts). The complaint does not allege, nor do we have information, that any of the contributions solicited or received by Hillary Clinton for President and Shelly Moskwa, in her official capacity as Treasurer, in connection with the letter attached to the complaint were outside of applicable limitations and prohibitions.

Notably, then-Senator Hillary Clinton officially conceded the Democratic nomination for the 2008 United States presidential election on June 7, 2008, and, thus, publicly ended her campaign well before the complainant received the solicitation from the campaign committee. *See Adam Nagourney and Mark Leibovich, Clinton Ends Bid With Clear Call To Elect Obama, The New York Times*, June 8, 2008. Further, in the undated letter attached to the complaint,

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**Mrs. Clinton explicitly states that the purpose of the solicitation was to help retire the campaign's debt. Complaint, Attachment 4. Thus, contrary to the complaint, there appears to be no basis for the allegation that Hillary Clinton for President deceived voters by soliciting contributions under the premise that she was still running for President.**

**Finally, BCRA restricted the ability of candidates and their authorized committees to raise funds after the election to repay loans that the candidates made to their authorized committees. See 2 U.S.C. 441a(j). Section 441a(j) states, "Any candidate who incurs personal loans after the effective date of the Bipartisan Campaign Reform Act of 2002 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed \$250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election." However, the complaint does not allege, and we do not have information, that the Hillary Clinton for President Committee was soliciting contributions to repay the candidate. Indeed, the solicitation letter attached to the complaint specifically states that Clinton was "not asking for anyone's help to pay" back money she loaned the campaign.**

**Based on the foregoing, there is no reason to believe that Hillary Clinton for President and Shelly Moskwa, in her official capacity as Treasurer, violated the Act.**